

### **REMARKS/ARGUMENTS**

The specification and claims 1, 3, 8, and 12 are amended. New claims 13-18 are added. The specification is amended to provide background information about U.S. government standards for relocatable transportable safety crash barrier systems. The original specification, paragraph [0003], referred in general to “regulatory standards,” and the amendment provides background information about those regulatory standards. Applicant submits that such amendments provide clarifying information known to those of ordinary skill in the art and are not new matter.

The claims are amended to correct minor inconsistencies in claim terminology. Claims 1 and 12 are amended to clarify that the elongate barrier modules connected end-to-end “form a contiguous plurality of the barrier modules.” Claims 1 and 12 are amended to clarify that the deformable members are secured to each of the barrier modules. Claim 8 is amended to recite that the elongate barrier comprises recesses extending into a first face of the elongate barrier. Support for this amendment is found in paragraph [0047] and Fig. 8 of the published specification. Claims 1, 8, and 12 are amended to recite that the deformable member spaces the crash rail away from the barrier module. Support for this amendment may be seen in Figs. 3, 5, and 8. Claims 1, 8, and 12 are amended to recite that the invention safely absorbs vehicle impacts against the crash rail. Support for this amendment may be found in the title, paragraph [0003], and implied throughout the specification. New claims 13-16 depend from claim 12 and are drawn from the subject matter of original claims 3, 4, 5, and 7, respectively. Amendments to claims 1 and 12 and new claims 17 and 18 relate to the deformable member being attached to the barrier modules at the location where the adjacent barrier modules are connected. These amendments and new claims are supported by the disclosure of paragraph [0023] in the published specification and Fig. 8, discussed in paragraph [0047] of the published specification. Applicant respectfully requests favourable reconsideration in view of the following remarks.

Applicant expresses appreciation to Examiner Addie for discussing this patent application with Applicant’s attorney on May 30, 2007. The pending Office Action and the cited prior art patents were discussed. It was agreed that the foregoing claims would not have been obvious

from the combined disclosure of Fitch and Wasserstrom '934, discussed below. Examiner Addie agreed to reconsider the pending claims and update the patent search, if necessary.

***Claim Rejections – 35 USC § 103***

The Office Action rejected claims 1-12 under 35 USC § 103(a) as being unpatentable over the combined disclosure of Fitch (U.S. Patent 3,643,924) in view of Wasserstrom (U.S. Patent No. 5,988,934). Applicant respectfully submits that the claimed invention would not have been obvious from the combined teachings of Fitch in view of Wasserstrom.

Fitch. The Fitch patent discloses a 1970 construction of a sand barrel end treatment for fixed highway hazards, such as bridge abutments adjacent to a highway. Fitch's highway safety device is not a relocatable traffic barrier system including a plurality of elongate barrier modules connected end-to-end to form a contiguous plurality of the barrier modules. It was classified as a protective barrier end treatment that consists of containers clad with the non proprietary steel W-beam. Figs. 9-11 reveal that Fitch's end treatment is not a contiguous plurality of the barrier modules, but instead is simply a crash cushion for attachment to a fixed highway hazard.

Wasserstrom '934. The Wasserstrom '934 system is an array of hollow plastic segments that butt up against one another, each segment having one recessed receptacle at one end and a mating protrusion on the other end that fits into the corresponding receptacle of an adjoining segment. The mating protrusion and receptacle configuration facilitates end-to-end connection of Wasserstrom's road barriers.

According to the Office Action, the Fitch patent discloses all of the features of the rejected claims, except for the use of a fluid ballast. The Office Action argues at page 3 that "it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the traffic barrier disclosed by Fitch to have water-filled barriers, as taught by Wasserstrom, to provide a barrier with enough stiffness to 'prevent a vehicle from penetrating into a desired area.'" Applicant respectfully submits that Fitch and Wasserstrom, in combination, fail to teach and suggest each and every feature recited in the claims. For example, the combined prior art fails to teach the relocatable traffic barrier system recited in claim 1, and specifically fails to teach "at least one crash rail is secured to each of the elongate barrier

modules by a deformable member said deformable members being disposed between the at least one crash rail and the elongate barrier modules to space the at least one crash rail away from the barrier modules, wherein selected deformable members are secured to each of a pair of adjacent barrier modules where the adjacent barrier modules are connected end-to-end.” The combined prior art fails to teach the deformable member recited in claim 8, and specifically fails to teach that each of the elongate barrier modules comprising “recesses extending into a first face of said elongate barrier module” and that the deformable member includes “a first part to be received within said recesses of a said elongate barrier module and securable to said recesses by at least one fastener.” The combined prior art further fails to teach that “the deformable member spaces the crash rail away from the barrier module, wherein the deformable members are connected to and disposed between each of a pair of adjacent barrier modules.” The combined prior art fails to teach the method for installing a traffic barrier recited in claim 12, and specifically fails to teach the recited configuration of the deformable members secured to each of the barrier modules and to the crash rail.

New claim 17 depends from claim 1 and recites that “selected deformable members are secured to the elongate barrier modules by fasteners, wherein selected fasteners pass through each of a pair of adjacent barrier modules thereby to connect the pair of modules to each other and to secure the deformable members to the elongate barrier modules.” This feature is not disclosed by the combined prior art.

New claim 18 depends from claim 8 and recites that “selected fasteners pass through each of a pair of adjacent barrier modules thereby to connect the pair of barrier modules to each other and to secure the deformable members to the elongate barrier modules.” This feature is not disclosed by the combined prior art.

In view of the foregoing, Applicant respectfully submits that the pending claims would not have been obvious from the combined teachings of Fitch and Wasserstrom ‘934 and that the claims are in condition for allowance.

***Wasserstrom '540***

During the telephonic interview mentioned above, Examiner Addie stated that to his present knowledge, U.S. Patent 5,531,540 to Wasserstrom appeared to be the closest prior art. The Wasserstrom '540 patent discloses a saddle pipe/metal strap attachment as a means of reinforcing the walls and to hold the joints of the plastic modules together. A cinch-type wire strap passes underneath the device to hold the parts together. These fittings are placed entirely on the external surface of the Wasserstrom '540 device. There are no fixture fittings through the body proper of the module. Adjacent modules are held together by the action of the pipes extending along the side of the modules. Applicant respectfully submits that the pending claims would not have been obvious from the Wasserstrom '540 patent alone or in combination with the other cited prior art of record.

In view of the foregoing, Applicant respectfully requests that a timely Notice of Allowance be issued in this case. If there are any remaining issues preventing allowance of the pending claims that may be clarified by telephone, the Examiner is requested to call the undersigned.

Respectfully submitted,

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